

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants : Wolfgang RUF et al. Confirmation No.: 2423  
Appln. No : 10/072,876 Group Art Unit: 1731  
Filed : February 12, 2002 Examiner: J. Fortuna  
For : LAMELLA OF A HEADBOX OF A PAPER, CARDBOARD OR  
TISSUE MACHINE

**REPLY BRIEF UNDER 37 C.F.R. 41.41(a)(1)**

Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop \_\_\_\_\_  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This Reply Brief is in response to the Examiner's Answer dated December 15, 2000, the period for reply extending until February 15, 2000.

In the Examiner's Answer, the Examiner has withdrawn the formal rejection of claims 1 – 53 under 35 U.S.C. § 112, second paragraph (Issue (B)). Otherwise, the claims remain finally rejected in the manner advanced in the final Office Action with regard to Issues (A), (C), (D), and (E) and provides arguments in support thereof.

Appellants note that this Reply Brief is being filed under 37 C.F.R. 41.41(a)(1) and is directed to the arguments presented in the Examiner's Answer, and is therefore must be entered unless the final rejection is withdrawn in response to the instant Reply Brief. With regard to this Reply Brief, Appellants note that they are addressing points made in the Examiner's Answer and not repeating the arguments set forth in the Appeal Brief.

## **POINTS OF ARGUMENT**

### **First Issue**

On the Page 6, section 10 (*Response to Arguments*), the Examiner asserts the original disclosure fails to support the recited feature “integrally formed” with respect to the structures in or on the lamella.

While acknowledging the term “integrally formed” is not found in the original disclosure, Appellants submit the original disclosure provides sufficient support to recite this feature in the pending claims. In particular, as Appellants pointed out in the Appeal Brief, Figures 3a and 3b, as originally submitted, and the original text of the instant specification provide sufficient support for the term “integrally formed,” as recited in the independent claims.

In this regard, the original figures, see, e.g., Figures 3a and 3b, reveal the lamella and the structures formed in or on the lamella surface are formed as one piece. Moreover, paragraph [0064] of Appellants’ original disclosure states “structured lamella end 11.1 may be *embodied or formed with a grooved structured surface 22.*” Thus, Appellants submit the original specification disclosed a lamella *formed* with a grooved structure.

Thus, Appellants submit the original disclosure provides sufficient support for the recitation “integrally formed,” as recited in the pending claims. As support for the term “integrally formed” can be found in the originally submitted disclosure, Appellants, in compliance with the requirements of 35 U.S.C. § 112, first paragraph, the inventors had possession of the subject matter of the instant invention at the time of the invention, such that the Examiner’s assertions to the contrary are improper.

Accordingly, Appellants request the Board of Patent Appeals and Interferences reverse the Examiner's decision to finally reject claims 1 – 53 under 35 U.S.C. § 112, first paragraph, and indicate these claims are fully in compliance with the requirements of the statute.

## **Second Issue**

On the Page 7, section 10 (*Response to Arguments*), the Examiner's interpretation of the term "integrally formed" as "an essential part of the device" is improper in view of the context in which the disputed term is utilized.

While the Examiner provided various definitions of "integral" to support his rejection, see Advisory Action, it is apparent, when read in the context of the instant application and amended claims, the Examiner's proffered definition is improper.

By way of example, Appellants' independent claim 1 recites, *inter alia*, a second surface, located opposite said first surface, provided with a structured end adjacent said sloped portion and having at least one structure *integrally formed* in or on said second surface. This exemplary claim, if construed in the manner suggested by the Examiner, would be redundant and thus have no meaning within the scope of independent claim 1.

That is, claim 1 recites the elements to define the lamella according to an embodiment of the invention. Each recited feature is forms part of the definition, such that to assert one ordinarily skilled in the art reviewing the original disclosure and claims would understand the term "at least one structure integrally formed" as encompassing at least one structure is an essential part of the claimed embodiment of the invention

would be ignore the term “integrally formed.” Each feature in a claim is important to the particular embodiment it defines, such that reciting a feature is “essential to the [embodiment of the] device” being claimed is wholly unnecessary.

Thus, Appellants submit the Examiner’s proffered definition of “integrally formed” reads this term out of the claims, which is improper. Further, as discussed above, Appellants submit the original disclosure provides sufficient and clear support for construing the term “integrally formed” as at least one structure formed in one piece in or on the second surface, in terms of independent claim 1.

Accordingly, consideration of the claims by the Board according to Appellants’ proffered definition of “integrally formed” is proper and hereby requested.

### **Third Issue**

On the Page 7, section 10 (*Response to Arguments*), the Examiner asserts Figures 6 and 7 of RUF show an integral structure (as improperly defined by the Examiner) that anticipates Appellants’ invention.

As discussed in Appellants’ Appeal Brief, RUF fails to teach or even arguably suggest any “structures,” as described in the instant application and as recited in at least the independent claims. In this regard, Appellants’ original disclosure identifies structures 12.1, 12.2, and 22 (*see, e.g.*, Figures 3a and 3b), which are integrally formed in or on the lamella. Contrary to the Examiner’s assertions, RUF fails to disclose any such structures, as described in Appellants’ application formed in or on the lamella, and certainly no such structures *integrally formed* in or on the lamella, as recited in at least independent claim 1.

As previously discussed, RUF, at best, discloses elements or pieces added to the lamella, such as end tips or strips. However, Appellants submit these elements or pieces are not the “structures” described in the application and recited in the pending claims. Still further, Appellants submit, while these elements or pieces in RUF are added to the lamella, and possibly recessed in the lamella body, these elements are not *integrally formed* with the lamella surface, as recited in at least independent claim 1.

Thus, Appellants submit RUF fails to disclose at least the above-noted features of the present invention, and request the Board reverse the Examiner's decision to finally reject claims 1 – 3, 11, 15, 17 – 23, 31, 35, 37 – 42, 44, and 48 – 50 under 35 U.S.C. § 102(b) and indicate these claims are allowable.

#### **Fourth Issue**

On the Page 8, section 10 (*Response to Arguments*), the Examiner asserts the combination of RUF and SANFORD is appropriate under 35 U.S.C. § 103(a).

Appellants submit, as neither RUF nor SANFORD suggests at least one structure *integrally formed in or on the second surface adjacent the sloped portion*, no proper combination of these documents can render unpatentable the instant invention. Thus, Appellants submit that no proper combination of the applied art can render unpatentable the combination of features recited in at least independent claims 1, 22, and 44.

Moreover, while acknowledging that SANFORD shows a lamella having grooves formed in the lamella surface, Appellants submit that the art of record fails to provide any teaching or suggestion for combining the applied art in any manner that would

render obvious to the present invention. In particular, Appellants acknowledge that Figures 7 and 9 arguably show grooves extending to the lamella end, such that the end of the lamella includes grooves, and has a wavy end shaped as shown in, e.g., Figure 4.

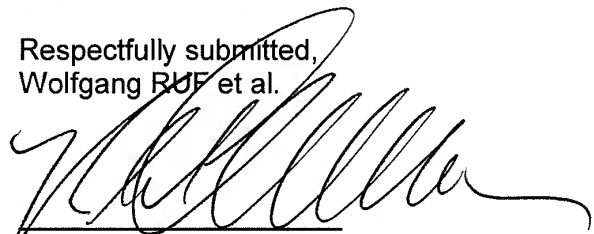
In contrast to SANFORD, the Examiner's attention is directed to Figure 2 of RUF, as well as the accompanying text, which discloses that tip t should be as exactly straight-lined as possible from side wall to side wall, i.e., it should be *as close as possible to parallel to the outlet ends*, see RUF, column 4, lines 16 - 23. Thus, contrary to the teaching SANFORD, RUF expressly discloses an insertable lamella end having a specially designed tip to be exactly straight as possible, which teaches against the use of a wavy shaped lamella tip, as taught by SANFORD.

Therefore, Appellants request the Board reverse the Examiner's decision to finally reject claims 12, 32, 46, and 51 - 53 under 35 U.S.C. § 103(a) and indicate these claims are allowable.

### **CONCLUSION**

For the reasons expressed above, Appellant respectfully requests that the grounds of rejection advanced by the Examiner be reversed. Appellants further request that the application be returned to the Examining Group for prompt allowance.

Respectfully submitted,  
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